REMARKS

The Office Action mailed January 26, 2007 has been received and reviewed. Claims 1-8 are currently pending in the application. Claims 1-8 stand rejected. Applicant has amended no claims, and respectfully requests reconsideration of the application as presented herein.

Double Patenting Rejection Based on U.S. Patent No. 6,697,629

Claims 1-8 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 4, 8, 9, and 16, 17, 18, and 20 of U.S. Patent No. 6,697,629. In order to avoid further expenses and time delay, Applicant elects to expedite the prosecution of the present application by filing a terminal disclaimer to obviate the double patenting rejections in compliance with 37 CFR §1.321 (b) and (c). Applicant's filing of the terminal disclaimer should not be construed as acquiescence in the Examiner's double patenting or obviousness-type double patenting rejections. Attached are the terminal disclaimer and accompanying fee.

Claim Rejections under 35 U.S.C. § 103

Claims 1-4 were rejected as being unpatentable over U.S. Patent 6,539,006 to Taylor (hereinafter "the Taylor reference") in view of U.S. Patent 6,078,611 to LaRosa et al (hereinafter "the LaRosa reference"). Applicant respectfully traverses this rejection, as hereinafter set forth.

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

The 35 U.S.C. § 103(a) obviousness rejections of claims 1-4 are improper because the elements for a prima facie case of obviousness are not met. Specifically, the rejection fails to meet the criterion that the prior art reference must teach or suggest all the claims limitations.

Regarding independent claim 1 and claims 2-4 depending therefrom, Applicant's independent claim 1 includes claim elements not taught or suggested in the cited references.

Applicant's independent claim 1 recites:

> 1. A remote terminal in a communication system, comprising:
> a first receiver operative to receive, process, and digitize a received signal to provide samples; and
> ***a rake receiver*** coupled to the first receiver and operative to receive and process the samples ***to provide time measurements indicative of times of arrival of transmissions received at the remote terminal from a plurality of base stations***, wherein the rake receiver includes a plurality of finger processors, wherein a first set of one or more finger processors is assigned to a first set of one or more base stations in active communication with the remote terminal, wherein a second set of one or more finger processors is assigned to a second set of one or more base stations not in active communication with the remote terminal, and wherein finger processors assigned to base stations in the first and second sets are operative to perform the time measurements on the transmissions received from the base stations. (Emphasis added.)

Applicant respectfully asserts that neither the Taylor reference nor the LaRosa reference, either individually or in any proper combination, teach or suggest Applicant's invention as presently claimed in independent claim 1.

The Office Action concedes:

> Regarding claim 1, … Taylor does **not** disclose **the rake receiver is operative to provide *time measurements indicative of times of arrival of transmissions received a the remote terminal from a plurality of base station[s],*** …. (Office Action, p. 9; emphasis added.)

The Office Action then continues:

> However, LaRosa discloses a rake receiver (see Fig. 1) comprising of an ADC (see Fig. 1, block 110) for producing samples (rays) and fingers which include time tracking circuits for controlling the time position of the finger in accordance with the **time positions of a received ray (*from a base station*)**, see column 7, lines 6-16). The tracking circuit determines the ***arrival time position*** of the ray and adjusts the finger based on whether the ray was received early or late (see column 7, line 64-column 8,line 9). LaRosa further discloses by comparing the time positions of two fingers, the time separation between two arriving rays in known (see column 7, lines 61-63). (Office Action, p. 9; emphasis added).

The Office Action is correct in conceding the lack of teaching or suggestion in the Taylor reference for Applicant's claim element of "***a rake receiver*** … ***to provide time measurements***

indicative of times of arrival of transmissions received at the remote terminal from a plurality of base stations". Furthermore, the Office Action is silent regarding either the Taylor reference or the LaRosa reference teaching or suggesting Applicant's claim element of "***time measurements … from a plurality of base stations***" as recited in independent claim 1.

Generally, the LaRosa reference teaches or suggests a rake receiver that identifies timing positions to align the multipath rays received from a **single** base station. Specifically, the LaRosa reference teaches or suggests:

> The RAKE receiver 112 includes a plurality of receiver fingers, … ***[e]ach receiver finger*** from a receiver circuit ***assignable to receive one ray of the multipath signal.*** The receiver fingers include time tracking circuits for controlling the time position of the fingers, also referred to herein as finger timing. (LaRosa, col. 4, lines 3-12; emphasis added.)

Clearly the LaRosa reference teaches or suggests "time tracking" between signals, however, the teachings or suggestions relating to "time tracking" is between the multipath rays of a **single** signal transmitted from a **single** base station. In contrast, neither the Taylor reference nor the LaRosa reference, either individually or in any proper combination, teach or suggest ***"time measurements … from a plurality of base stations"*** as claimed in Applicant's independent claim 1 from which claims 2-4 depend.

Therefore, since neither the Taylor reference nor the LaRosa reference teach or suggest Applicant's claimed invention including "***a rake receiver … to provide time measurements indicative of times of arrival of transmissions received at the remote terminal from a plurality of base stations***", these references, either individually or in any proper combination, cannot render obvious, under 35 U.S.C. §103, Applicant's invention as presently claimed in independent claim 1. Accordingly, Applicant respectfully requests the rejection of independent claim 1 be withdrawn.

The nonobviousness of independent claim 1 precludes a rejection of claims 2-4 which depend therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See* In re Fine, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, the Applicant requests that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to independent claim 1 and claims 2-4 which depend therefrom.

CONCLUSION

Claims 1-8 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicant's undersigned attorney.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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